IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3374 OF 2006
IN
CRIMINAL APPEAL NO. OF 2006

The State of Maharashtra .. Applicant

Vs.

Vinod Shivram Jamdar & Ors. .. Respondents

Mrs.U.V.Kejriwal, A.P.P.for the state

Mr.Vilas Jadhav i/b G.M.Savagave for respondent no.1 to 3

CORAM : J.N.PATEL &
R.S.MOHITE, JJ.

DATED : 8TH JANUARY, 2007

P.C.:

1. Heard.

2. The State has preferred an appeal against acquittal and seeks leave of this court. It is the prosecution's case that one Manjula Sagar Shetty was gang raped by the respondents on 29.08.04 at 01.30 hrs. The trial court found the evidence short of coming to the conclusion that the

respondents have committed the offence.

3. We find that the view taken by the trial court is just and proper. In the facts and circumstances of the case, the trial court has taken into consideration the conduct of the prosecutrix. Further, the prosecutrix's evidence does not stand corroborated by medical and forensic evidence placed on record and the prosecution have failed to examine material witness particularly Ramniklal who was the person whom she was accompanying at the time she was abducted and gang raped. Therefore, we do not find that this is a fit case in which leave can be granted. Therefore, the application is rejected as a consequence of which the appeal preferred by the state stands dismissed.

(SHRI J.N. PATEL, J)

(SHRI R.S.MOHITE, J)